

111TH CONGRESS  
1ST SESSION

# H. R. 1836

To amend the Internal Revenue Code of 1986 to provide a payroll tax holiday for small businesses.

---

IN THE HOUSE OF REPRESENTATIVES

APRIL 1, 2009

Mr. MINNICK (for himself and Mr. SCHOCK) introduced the following bill;  
which was referred to the Committee on Ways and Means

---

## A BILL

To amend the Internal Revenue Code of 1986 to provide  
a payroll tax holiday for small businesses.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Payroll Tax Holiday  
5       Act of 2009”.

6       **SEC. 2. PAYROLL TAX HOLIDAY FOR SMALL BUSINESSES.**

7       (a) IN GENERAL.—Subchapter C of chapter 21 of the  
8       Internal Revenue Code of 1986 (relating to Federal Insur-  
9       ance Contributions Act) is amended by redesignating sec-

tion 3128 as section 3129 and by inserting after section 3127 the following new section:

**“SEC. 3128. PAYROLL TAX HOLIDAY FOR SMALL BUSINESSES DURING PORTION OF 2009.**

“(a) PAYROLL TAXES.—In the case of an eligible small business, the rate of the taxes imposed by sections 3101(a) and 3111(a) shall be zero with respect to remuneration paid during the payroll tax holiday period, including for purposes of determining the rates of tax under sections 3201(a) and 3221(a) with respect to compensation paid during such period.

“(b) SELF-EMPLOYMENT TAXES.—In the case of an eligible small business—

“(1) IN GENERAL.—For purposes of the tax imposed by section 1401(a), the self-employment income of the taxpayer for the taxable year (determined without regard to this subsection) shall be reduced by the payroll tax holiday period income for such taxable year.

“(2) TAX ON EMPLOYEE REPRESENTATIVES UNDER THE RAILROAD RETIREMENT TAX ACT.—For purposes of the tax imposed by section 3211(a), the compensation of the taxpayer subject to tax under such section for the taxable year (determined without regard to this subsection) shall be reduced by

1 the payroll tax holiday period income for such tax-  
2 able year for purposes of applying so much of the  
3 rate of such tax as is determined by reference to the  
4 taxes imposed by sections 3101(a) and 3111(a).

5 “(3) PAYROLL TAX HOLIDAY PERIOD IN-  
6 COME.—For purposes of this subsection, the payroll  
7 tax holiday period income for any taxable year is the  
8 amount equal to the applicable percentage of—

9 “(A) the self-employment income for such  
10 taxable year in the case of the tax imposed by  
11 section 1401(a), and

12 “(B) the compensation subject to tax  
13 under section 3211(a) in the case of the tax im-  
14 pose by section 3211(a).

15 “(4) APPLICABLE PERCENTAGE.—For purposes  
16 of paragraph (3), the applicable percentage is the  
17 percentage determined by dividing—

18 “(A) the number of days during the tax-  
19 able year which are within the payroll tax holi-  
20 day period, by

21 “(B) the number of days during the tax-  
22 able year.

23 “(c) ELIGIBLE SMALL BUSINESS; PAYROLL TAX  
24 HOLIDAY PERIOD.—For purposes of this section—

25 “(1) ELIGIBLE SMALL BUSINESS.—

1           “(A) IN GENERAL.—The term ‘eligible  
2           small business’ means any person engaged in a  
3           trade or business if such person employed no  
4           more than 50 employees on the first day of the  
5           payroll tax holiday period.

6           “(B) SPECIAL RULES.—For purposes of  
7           subparagraph (A)—

8                   “(i) all persons treated as a single em-  
9                   ployer under subsection (b), (c), (m), or  
10                  (o) of section 414 shall be treated as 1 tax-  
11                  payer, and

12                   “(ii) temporary lay-offs shall be dis-  
13                  regarded.

14           “(2) PAYROLL TAX HOLIDAY PERIOD.—The  
15           term ‘payroll tax holiday period’ means the period—

16                   “(A) after the last day of the month which  
17                  includes the date of the enactment of this sec-  
18                  tion, and

19                   “(B) before January 1, 2010.

20           “(d) LIMITATION ON REDUCTION IN EMPLOYER  
21           TAXES.—

22                   “(1) IN GENERAL.—If at the close of the pay-  
23                  roll tax holiday period—

24                   “(A) the aggregate reduction under this  
25                  section in the employer taxes, exceeds

1           “(B) the aggregate increase in employee  
2           compensation or capital expenditures during the  
3           payroll tax holiday period as compared to the  
4           comparable period ending on the day before the  
5           payroll tax holiday period,  
6           then the applicable employer tax (determined with-  
7           out regard to this subsection) for the first payroll  
8           period beginning after the payroll tax holiday period  
9           shall be increased by such excess.

10           “(2) EMPLOYER TAXES.—For purposes of sub-  
11           paragraph (A), the term ‘employer taxes’ means—

12           “(A) the taxes imposed by sections  
13           3111(a) and 3221(a), and

14           “(B) so much of the taxes imposed by sec-  
15           tions 1401(a) and 3211(a) as does not exceed  
16           the tax determined at the rate imposed by sec-  
17           tion 3111(a).

18           “(e) TRUST FUNDS HELD HARMLESS.—There are  
19           hereby appropriated (out of any money in the Treasury  
20           not otherwise appropriated) for each fiscal year to the  
21           trust funds under section 201 of the Social Security Act  
22           and the Social Security Equivalent Benefit Account under  
23           section 15A of the Railroad Retirement Act of 1974 (45  
24           U.S.C. 231n–1) an amount equal to the reduction in the

1 transfers to such fund for such fiscal year by reason of  
2 this section.

3 “(f) EMPLOYER NOTIFICATION.—The Secretary shall  
4 notify small business employers of the payroll tax holiday  
5 period in any manner the Secretary deems appropriate.”.

6 (b) CONFORMING AMENDMENT.—The table of sec-  
7 tions for such subchapter C is amended by redesignating  
8 the item relating to section 3128 as relating to section  
9 3129 and by inserting after the item relating to section  
10 3127 the following new item:

“Sec. 3128. Payroll tax holiday for small businesses during portion of 2009.”.

11 (c) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-  
13 graph (2), the amendments made by this section  
14 shall apply to remuneration paid after the last day  
15 of the month which includes the date of the enact-  
16 ment of this Act.

17 (2) SELF-EMPLOYMENT TAXES.—So much of  
18 section 3128 of the Internal Revenue Code of 1986  
19 (as added by this section) as relates to the taxes im-  
20 posed by sections 1401(a) and 3211(a) shall apply  
21 to taxable years ending after such last day.

○